

(6/27/12)

TRANSIT CENTER GROUND LEASE AGREEMENT

between

KING COUNTY,
a political subdivision of the State of Washington

as Transit Center Ground Lessor

and

KIRKLAND PARK & RIDE, LLC,
a Washington limited liability company,

as Transit Center Ground Lessee

_____, 2012

South Kirkland TOD Transit Center Project
Kirkland, Washington

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TRANSIT CENTER GROUND LEASE AGREEMENT

THIS TRANSIT CENTER GROUND LEASE AGREEMENT ("Transit Center Ground Lease") is made for reference purposes as of the 1st day of _____, 2012, by and between **KING COUNTY**, a political subdivision of the State of Washington ("Transit Center Ground Lessor"), and **KIRKLAND PARK & RIDE, LLC**, a Washington limited liability company qualified to conduct business in the State of Washington ("Transit Center Ground Lessee").

RECITALS

A. Transit Center Ground Lessor is a political subdivision of the State of Washington and is authorized by RCW Chapter 35.56 to provide metropolitan public transportation services in the Seattle-King County metropolitan area. Transit Center Ground Lessee is a private developer of affordable housing and mixed use projects duly organized as a limited liability company under the laws of the State of Washington.

B. In January of 1998 Transit Center Ground Lessor adopted a Transit Oriented Development Program (TOD) to encourage public or private development which creates new mixed income housing development, including related commercial activity, in close proximity to transit facilities and services to increase ridership of Transit Center Ground Lessor's metropolitan public transportation system, decrease automobile trips and traffic congestion and provide additional fare revenue to support metropolitan public transportation services throughout King County. In 2011, Transit Center Ground Lessor issued Request for Proposals No. 1324-11RLD, dated August 25, 2011 ("RFP") requesting proposals for a project that would provide the greatest financial return for Transit Center Ground Lessor, expand essential commuter parking up to 853 stalls from 603 stalls, provide a mixture of market rate housing, affordable housing, associated parking and mixed-use commercial development and promote the City of Kirkland's emerging vision for the Yarrow Bay Business District. The eventual development of affordable housing is a critical component of Transit Center Ground Lessor's plans for the real property that is the subject of this Transit Center Ground Lease. For reasons of economic efficiency, the parties have agreed to a phased approach to the development of the Transit Center, commuter parking and the affordable housing.

C. The transit center, parking garage and mixed use, affordable housing shall be developed in three discrete phases. Transit Center Ground Lessor has agreed to enter into this Transit Center Ground Lease with Transit Center Ground Lessee on the terms and conditions hereinafter set forth on the express condition that Transit Center Ground Lessee agree to construct the first phase of the South Kirkland TOD Project, as defined in the Transit Center Project Lease, consisting of an expanded and improved transit center, including the temporary relocation of the existing transit center, which will promote the public welfare by supporting transit ridership along the State Route 520 Corridor. The second phase of the Kirkland TOD Project involves the construction of a surface parking area for 321 cars and a multi-level 532 stall parking garage (collectively, the "Garage Project"), which will promote the public welfare by providing additional public parking for single-trip transit commuters in King County. Transit Center Ground Lessor and Transit Center Ground Lessee shall also enter into a separate ground lease for the Garage Land for the Garage Project on the express condition that Transit Center Ground Lessee, as Garage Ground Lease Lessee thereunder, agree to design, develop, finance,

construct, equip and complete the Garage Project on the Garage Land and thereafter lease the garage, together with Garage Ground Lessee's rights in the Garage Land to Garage Ground Lessor for the monthly rent, for the term and on the other terms and conditions set forth in the Garage Project Lease. The third phase will consist of affordable and market rate housing and mixed-use commercial amenities ("Mixed Use, Mixed Income Community") that will be developed by private developers pursuant to design principles adopted by the City of Kirkland, the City of Bellevue and King County

D. In order to accommodate the development of the three phases of the development, Transit Center Ground Lessor intends to cause the short plat the Property into three legal lots consisting of the Transit Center Land, Garage Land and the Housing Land, defined below. As of the date of this Transit Center Ground Lease, Transit Center Ground Lessor has not yet completed the short plat of the Property into the aforementioned three legal lots. Transit Center Ground Lessor and Transit Center Ground Lessee understand and agree that Transit Center Ground Lessor intends to lease only the Transit Center Land to Transit Center Ground Lessee and that upon completion of the short plat of the Property pursuant to the provisions of Section 2.4 below, the legal description of the Transit Center Land shall be attached to the Garage Ground Lease and this Transit Center Ground Lease as **EXHIBIT B** and thereafter all references to the real property demised under this Transit Center Ground Lease shall refer only to the Transit Center Land the legal description of which is then to be attached to this Transit Center Ground Lease as **EXHIBIT B**. This Transit Center Ground Lease shall thereafter be amended so as to exclude the Garage Land and the Housing Land from the real property demised hereunder.

E. Concurrently herewith, Transit Center Ground Lessor shall enter into the Transit Center Project Lease as Transit Center Project Lease Tenant and the Garage Ground Lease and Garage Project Lease as Garage Ground Lessee and Garage Project Lease Tenant, respectively, on the express condition that Transit Center Ground Lessee execute this Transit Center Ground Lease and the Garage Ground Lease and abide by the terms herein and therein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. Each recital set forth above is incorporated into this Transit Center Ground Lease as though fully set forth herein. All capitalized terms not otherwise defined in the Recitals or elsewhere in this Transit Center Ground Lease, shall have the meaning set forth in the Transit Center Project Lease.

2. Intent to Lease.

2.1 Demise. Subject to satisfaction of the Conditions Precedent set forth in Section 6 of the Transit Center Project Lease on or before the Conditions Precedent Satisfaction Date, Transit Center Ground Lessor hereby leases the Property legally described and depicted on **EXHIBIT A**, attached hereto and made a part of this Transit Center Ground Lease, to Transit Center Ground Lessee, and Transit Center Ground Lessee hereby leases the Property from Transit Center Ground Lessor upon and subject to the conditions set forth in this Transit Center

Ground Lease and the Transit Center Project Lease, and subject to all encumbrances and matters of record as of the date of this Transit Center Ground Lease.

2.2 Title to and Condition of Real Property. Transit Center Ground Lessee has had an opportunity to and has conducted a thorough investigation of the Property and the Transit Center Land and is in all material respects knowledgeable and familiar with the present condition and state of repair of the Property and the Transit Center Land. The Property and the Transit Center Land is leased to Transit Center Ground Lessee in its present condition and state of repair on an "AS IS" basis without representation or warranty of any kind by Transit Center Ground Lessor, and without any representation or warranty by Transit Center Ground Lessor, express or implied, and expressly without recourse to Transit Center Ground Lessor as to the physical condition or suitability of the Transit Center Land for Transit Center Ground Lessee's intended purposes.

2.3 Interim Use of Housing Land. Transit Center Ground Lessor shall grant Transit Center Ground Lessee a temporary construction easement in the Housing Land to allow Transit Center Ground Lessee to temporarily relocate the existing transit-center on the Property to the Housing Land to a location approved by Transit Center Ground Lessor prior to commencement of construction of the Transit Center Project on the Transit Center Land so that transit services to transit commuters utilizing Transit Center Ground Lessor's South Kirkland transit facility are not disrupted.

2.4 Short Plat and Reconfiguration of the Transit Center Land. Transit Center Ground Lessee acknowledges that the Property currently consists of a single legal lot and that initially the Transit Center Ground Lease shall apply to the entirety of the Property, but that Transit Center Ground Lessor shall cause the Property to be short platted into a minimum of three legal lots, one lot shall constitute the Transit Center Land and the remainder shall then constitute the Garage Land and the Housing Land. Transit Center Ground Lessor shall cause the short plat of the Property into a minimum of three lots to be completed prior to the Initial Conditions Precedent Satisfaction Date. Upon completion of the short plat, **EXHIBIT A** shall be deleted and replaced with **EXHIBIT B** which shall contain the legal description and depiction of the Transit Center Land and thereafter all reference to the real property demised under this Transit Center Ground Lease shall mean the Transit Center Land as legally described in **EXHIBIT B** attached hereto. Likewise, **EXHIBITS C-1** and **C-2** of the Transit Center Project Lease shall be amended and replaced with the legal description and map of the Transit Center Land, Garage Land, and Housing Land which shall be attached to the Transit Center Project Lease as **EXHIBITS D, E, & F**, respectively.

3. Term. This Transit Center Ground Lease shall be for a term of twenty-five (25) years commencing on the Effective Date, except that if the Transit Center Project Lease, Garage Project Lease or Garage Ground Lease terminate for any reason prior to the Effective Date, this Transit Center Ground Lease shall also automatically terminate.

4. Rent. Transit Center Ground Lessee shall pay to Transit Center Ground Lessor as Rent for the Term the sum of \$100.00 payable in whole in advance on or before the Effective Date. Rent is fully earned upon the Effective Date and is nonrefundable.

4.1 Additional Rent. From and after the Effective Date, Transit Center Ground Lessee shall also pay, without notice and without set-off, deduction or abatement, Additional Rent when the same shall be due and payable and in any event prior to delinquency. Additional Rent shall mean all costs, expenses, insurance premiums, Impositions and other payments, excluding Rent, which Transit Center Ground Lessee is required to pay under the terms of this Transit Center Ground Lease. In the event of any non-payment of Additional Rent, Transit Center Ground Lessor shall have, in addition to any other rights and remedies, all rights and remedies provided for herein or by law for the non-payment of Rent.

4.2 Net Lease. This Transit Center Ground Lease shall be deemed and construed to be a "net lease" and from and after the Effective Date, Transit Center Ground Lessee shall pay Transit Center Ground Lessor Rent, Additional Rent and any other payments required hereunder, free of any charges, assessments, Impositions or deductions of any kind and without abatement, deduction or setoff, whether now or hereafter arising or beyond the present contemplation of the parties.

5. Use of the Transit Center Land.

5.1 Use of Transit Center Land. Transit Center Ground Lessor reserves all right to use and possession of the Property and the Transit Center Land prior to the Effective Date. From and after the Effective Date, and except as set forth in Section 5.4 herein, the Transit Center Land shall be used and occupied by Transit Center Ground Lessee solely for the purpose of the design, development, construction, operation, use, repair and maintenance of the Transit Center Project pursuant to the terms and conditions set forth in the Transit Center Project Lease. Transit Center Ground Lessee shall not use or permit the Transit Center Land to be used for any other purpose without the prior written approval of Transit Center Ground Lessor, which consent may be withheld by Transit Center Ground Lessor in its sole and absolute discretion. Transit Center Ground Lessor would not have entered into this Transit Center Ground Lease but for the agreement by Transit Center Ground Lessee to enter into and perform all of its obligations under to the Transit Center Project Lease and this Transit Center Ground Lease including its obligation to construct and complete the Transit Center Project on or before the Required Completion Date set forth in the Transit Center Project Lease.

5.2 Transit Center Ground Lessor's Right to Inspect. Transit Center Ground Lessor shall have the right to inspect the Transit Center Land at any reasonable time during normal construction hours without prior notice to Transit Center Ground Lessee. Transit Center Ground Lessee will comply with all safety requirements of Transit Center Ground Lessee and the General Contractor. Transit Center Ground Lessee may, at its option, accompany Transit Center Ground Lessor during any inspections.

5.3 Quiet Enjoyment of the Transit Center Land. If and so long as Transit Center Ground Lessee shall pay all Additional Rent and all other amounts payable by Transit Center Ground Lessee hereunder whenever the same shall become due and shall keep all of the covenants and conditions required to be kept by it under this Transit Center Ground Lease and shall perform all of its other obligations hereunder, and additionally all of its obligations under the Transit Center Project Lease, Transit Center Ground Lessor covenants and agrees that from and after the Effective Date, and except as may otherwise be provided in the Transit Center

Project Lease, Transit Center Ground Lessor will not interfere with the peaceful and quiet occupation and enjoyment of the Transit Center Land by Transit Center Ground Lessee.

6. Impositions and Utilities.

6.1 Impositions. After the Effective Date, Transit Center Ground Lessee will, at Transit Center Ground Lessee's sole cost and expense, pay and discharge, on or before the fifteenth (15th) day prior to the last day upon which the same may be paid without interest or penalty, all Impositions. "Impositions" means all real and personal property taxes and assessments (including assessments for special improvements), license and permit fees, charges for public utilities, leasehold excise taxes, other excise taxes, levies, sales use and occupancy taxes any tax or charge assessed against Rent, Additional Rent or the fair market value of the Transit Center Land and any taxes levied or assessed in addition to or in lieu of, in whole or in part, such taxes, assessments or other charges and all other governmental impositions and charges of any kind and nature, general and special, ordinary and extraordinary, foreseen and unforeseen of every character (including interest and penalties thereon) which at any time from and after the Effective Date of this Transit Center Ground Lease may be imposed, levied upon or assessed against or which arise with respect to or constitutes a lien upon the Transit Center Land, the Transit Center Project, the leasehold estate created by this Transit Center Ground Lease or any part thereof, or any estate, right or interest therein or any occupancy, use or possession of or activities conducted by Transit Center Ground Lessee on the Transit Center Land or any part thereof. Impositions shall not include any tax computed on the basis of Transit Center Ground Lessor's net income. Transit Center Ground Lessee shall pay all interest and penalties imposed upon the late payment of any Impositions that Lessee is obligated to pay hereunder.

With respect to any Impositions which may be levied against the Transit Center Land or any improvements Transit Center Ground Lessee constructs on the Transit Center Land (collectively the "Improvements"), Additional Rent or other sum payable under this Transit Center Ground Lease, the leasehold estate created by this Transit Center Ground Lease or otherwise, or which under the Laws then in force may be evidenced by improvement or other bonds or may be paid either in full or in periodic installments, Transit Center Ground Lessee may elect to pay such Impositions in only the amount of the periodic installments then due (including interest) so long as such payment does not cause the Impositions to become delinquent or allows the Transit Center Land or the Improvements thereon to be sold for the non-payment of any such Imposition or subject Transit Center Ground Lessor to penalties, fines or criminal prosecution.

If Transit Center Ground Lessee fails to pay any Imposition on or before the fifteenth (15th) day prior to the last day upon which the same may be paid without interest or penalties for the late payment thereof, then the Transit Center Ground Lessor may pay the same with all interest and penalties lawfully imposed upon the late payment thereof. The amounts so paid by Transit Center Ground Lessor shall be immediately due and payable by Transit Center Ground Lessee to Transit Center Ground Lessor hereunder as Additional Rent.

Transit Center Ground Lessee, at Transit Center Ground Lessee's own cost and expense may, in good faith, contest the validity or amount of any Imposition, in which event Transit

Center Ground Lessee may defer the payment thereof while such contest shall be actively and diligently prosecuted and shall be pending undetermined, provided that:

(a) fifteen (15) days before the contested Imposition becomes delinquent by non-payment, Transit Center Ground Lessee shall deposit and thereafter maintain with Transit Center Ground Lessor an amount of money or other security reasonably satisfactory to Transit Center Ground Lessor sufficient to pay the contested items together with the interest and penalties thereon accruing during such contest. The money shall be held by Transit Center Ground Lessor, and shall be applied to the payment of such contested item together with interest and penalties thereon, if any, when the amount or amounts thereof have been finally determined;

(b) no provisions of this Transit Center Ground Lease shall be construed to require Transit Center Ground Lessor to allow any such contested items to remain unpaid for such length of time as shall permit the Transit Center Land or the Improvements, or any part thereof or interest therein, to be sold for the nonpayment thereof or the lien thereon created by such contested item to be foreclosed;

(c) deferral of payment and contest of the Impositions will not subject Transit Center Ground Lessor to criminal prosecution or fine; and

(d) Transit Center Ground Lessee shall indemnify, protect, defend and hold Transit Center Ground Lessor and the Transit Center Land harmless from and against any loss, cost, damage, liability, interest, attorneys' fees and other expenses arising out of such deferral of payment and contest of the Impositions.

At any time prior to or during the pendency of any such contest, Transit Center Ground Lessor, after written notice to Transit Center Ground Lessee, may pay out and apply so much of the money deposited by Transit Center Ground Lessee as may be required to the payment of any Impositions, together with interest and penalties, which, in Transit Center Ground Lessor's judgment should be paid to prevent the sale of the Transit Center Land, or the Improvements or any part thereof. To the extent that the amount of money so deposited with Transit Center Ground Lessor shall be insufficient to fully satisfy and discharge any such Imposition, together with interest and penalties thereon, Transit Center Ground Lessor may pay the same and the deficiency so paid by Transit Center Ground Lessor shall be immediately due and payable by Transit Center Ground Lessee to Transit Center Ground Lessor as Additional Rent.

6.2 Utilities. Prior to the Effective Date, Transit Center Ground Lessor shall be solely responsible for and shall pay separately for all charges for Utilities used or consumed at the Transit Center Land. After the Effective Date, Transit Center Ground Lessee shall be solely responsible for and shall pay separately for all charges for Utilities used or consumed at the Transit Center Land during the term of this Transit Center Ground Lease. Except as otherwise provided in the Transit Center Project Lease, Transit Center Ground Lessee shall make any necessary arrangements to have all such services or Utilities billed directly to and paid for directly by Transit Center Ground Lessee. "Utilities" means all utilities and services furnished to the Transit Center Land, including without limitation, gas, electricity, water, sewer, storm water, garbage collection and telephone service.

Transit Center Ground Lessor shall not be liable under this Transit Center Ground Lease for any loss or damage caused by or resulting from any variation, interruption or failure of Utilities or other services due to any cause whatsoever (other than the Transit Center Ground Lessor's intentional termination or interruption of such Utilities without legal justification), and no temporary interruption or failure of such Utilities or other services incident to the making of repairs, alterations or improvements or due to accident or strike conditions shall be deemed an eviction of Transit Center Ground Lessee or relieve Transit Center Ground Lessee from any of Transit Center Ground Lessee's obligations hereunder.

7. Development of Transit Center Project.

7.1 Construction of Transit Center Project. Transit Center Ground Lessee agrees that Transit Center Ground Lessee shall cause the Transit Center Project to be developed, constructed and completed on the Transit Center Land pursuant to the Transit Center Project Lease. Transit Center Ground Lessee shall not permit any development or construction on the Transit Center Land except as contemplated by the Transit Center Project Lease or as otherwise specifically approved in writing by Transit Center Ground Lessor.

7.2 Ownership of Improvements. During the Term, the Transit Center Project and all other improvements on the Transit Center Land paid for by Transit Center Ground Lessee shall be owned by Transit Center Ground Lessee. Upon the expiration or earlier termination of this Transit Center Ground Lease, including conveyance of the Transit Center Project to Transit Center Ground Lessor pursuant to Sections 21 and 22 of the Transit Center Project Lease, the Transit Center Project and all other improvements on the Transit Center Land shall become the property of Transit Center Ground Lessor.

8. Liens. Transit Center Ground Lessee covenants and agrees that it shall not during the Term of this Transit Center Ground Lease suffer or permit any Liens to be attached to, upon or against Transit Center Ground Lessor's fee interest in the Transit Center Land for any reason, including without limitation Liens related to financing of the Transit Center Project, Liens arising out of the possession, use, occupancy, acquisition, construction, repair, or rebuilding of the Transit Center Project or by reason of the furnishing of labor, services, materials, or equipment to the Transit Center Land. Transit Center Ground Lessee shall protect, defend, indemnify and hold Transit Center Ground Lessor harmless from and against all liabilities, losses, damages, expenses and costs (including reasonable attorneys' fees and costs) incurred in connection with any such Lien, which such obligations shall survive the expiration or earlier termination of this Transit Center Ground Lease.

9. Transit Center Ground Lessee Financing of Transit Center Project Improvements.

9.1 Construction Loan for Transit Center Project Improvements. Transit Center Ground Lessee shall not have the right to mortgage, pledge, encumber or assign its leasehold interest under this Transit Center Ground Lease or the Transit Center Project Lease in whole or in part except to the Construction Lender to secure the Construction Loan as defined in and pursuant to the requirements of Section 10 of the Transit Center Project Lease. The Deed of Trust and any Security Documents executed to secure the Construction Loan shall be and all times remain subject and subordinate to this Transit Center Ground Lease.

9.2 Protection of Construction Lender. If Transit Center Ground Lessee shall mortgage its leasehold interest under this Transit Center Ground Lease and the Transit Center Project Lease in a financing transaction which meets the requirements of Section 10 of the Transit Center Project Lease, then so long as such Construction Loan and Deed of Trust remain in full force and effect the provisions of Section 10 (Transit Center Project Lease Landlord Financing of Transit Center Project; Rights of Construction Lender), Section 24 (Default by Transit Center Project Lease Landlord) and Section 34.7 (Notices) of the Transit Center Project Lease shall apply to, and are by this reference incorporated into this Transit Center Ground Lease as though fully set forth herein.

9.3 Amendments. No agreement between Transit Center Ground Lessor and Transit Center Ground Lessee modifying, canceling or surrendering this Transit Center Ground Lease prior to Closing (as defined in the Transit Center Project Lease) shall be effective without the prior written consent of the Construction Lender.

9.4 Insurance Clauses. A standard mortgagee clause naming Construction Lender may be added to any and all insurance policies required to be carried by Transit Center Ground Lessee hereunder and the Deed of Trust shall so provide.

9.5 Deed of Trust Not a Prohibited Transfer. For the purposes of this Section 9, the granting of the Deed of Trust by Transit Center Ground Lessee to secure a Construction Loan which complies with the requirements of Section 10 the Transit Center Project Lease shall not be deemed to constitute a prohibited assignment or transfer of this Transit Center Ground Lease or the leasehold estate hereby created, nor shall Construction Lender, as such, be deemed to be an assignee or transferee of the Transit Center Ground Lessee's interest under this Transit Center Ground Lease or of the leasehold estate created hereby so as to require Construction Lender as such to assume the performance of any of the terms, covenants or conditions on the part of the Transit Center Ground Lessee to be performed prior to foreclosure of the Deed of Trust; provided, however, that upon foreclosure of the Deed of Trust, the Construction Lender or any purchaser at any sale of the Transit Center Ground Lessee's rights under this Transit Center Ground Lease in any proceedings for the foreclosure of any Deed of Trust, or the assignee or transferee of the Transit Center Ground Lessee's rights under this Transit Center Ground Lease created under any instrument of assignment or transfer in lieu of foreclosure of the Deed of Trust, shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Transit Center Ground Lessee to be performed hereunder from and after the date of such purchase and assignment including any obligation to complete construction of the Transit Center Project, and shall upon request by Transit Center Ground Lessor comply with the requirements of Section 10.4 of the Transit Center Project Lease, including execution of an assumption agreement (or new lease on the same terms and conditions as this Transit Center Ground Lease and the Transit Center Project Lease) assuming all rights, duties and obligations of the Transit Center Ground Lessee under this Transit Center Ground Lease and the Transit Center Project Lease. Any failure by Construction Lender or any such purchaser at any foreclosure sale, or purchaser or assignee of Transit Center Ground Lessee's interest under this Transit Center Ground Lease and/or the Transit Center Project Lease under deed-in-lieu of foreclosure, to execute such an assumption agreement within the time period and in form and substance satisfactory to Transit Center Ground Lessor as required under the Transit Center Project Lease

shall constitute an Event of Default under this Transit Center Ground Lease and the Transit Center Project Lease.

9.6 Construction Lender's Right to Assign. Construction Lender, upon acquiring the Transit Center Ground Lessee's interest under this Transit Center Ground Lease pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring the Transit Center Ground Lessee's interest under this Transit Center Ground Lease, or a new lease as provided above and with the written consent of Transit Center Ground Lessor and compliance with the provisions of Section 10 of the Transit Center Project Lease, sell and assign such leasehold interest on such terms and to such persons and organizations as are acceptable to Construction Lender and thereafter be relieved of all obligations under this Transit Center Ground Lease which accrue after the date of such sale or assignment so long as each of the following conditions are met:

(a) There is no default on the part of Construction Lender under this Transit Center Ground Lease or the Transit Center Project Lease and no event that with the giving of notice, the passage of time, or both, would constitute an Event of Default under this Transit Center Ground Lease or the Transit Center Project Lease and all such defaults having been cured to the reasonable satisfaction of Transit Center Ground Lessor prior to the effective date of such assignment;

(b) The proposed assignee is either purchasing in an all cash transaction without financing, or has obtained financing which complies with the requirements for a Construction Loan under Section 9 hereof and Section 10 of the Transit Center Project Lease. In any case where Final Completion of the Transit Center Project has not occurred, Transit Center Ground Lessor may also require evidence of financial capacity and/or resources to complete construction of the Transit Center Project in accordance with the requirements of this Transit Center Ground Lease and the Transit Center Project Lease;

(c) As part of such assignment the assignee shall assume the obligations of Transit Center Ground Lessee under this Transit Center Ground Lease and Transit Center Project Lease by executing, acknowledging and recording an assumption agreement in form and substance reasonably satisfactory to Transit Center Ground Lessor. The assignee shall thereafter have all the rights and shall perform all the duties and obligations of Transit Center Ground Lessee under this Transit Center Ground Lease and the Transit Center Project Lease; and

(d) Any such sale or assignment shall not release Construction Lender from any claims or obligations under this Transit Center Ground Lease or the Transit Center Project Lease, which arose while Construction Lender or any of its affiliates held the Transit Center Ground Lessee's interest under this Transit Center Ground Lease or the Transit Center Project Lease or was in possession of the Transit Center Land .

9.7 No Merger. So long as the Deed of Trust is in existence, unless the Construction Lender otherwise consents in writing, the fee title to the Transit Center Land and the leasehold estate of Transit Center Ground Lessee therein created by this Transit Center Ground Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Transit Center Ground Lessee or by a third party, by purchase or

otherwise. The foregoing shall not apply in the event of termination of this Transit Center Ground Lease after default by Transit Center Ground Lessee.

9.8 No Subordination of Transit Center Ground Lease. There shall be no subordination of this Transit Center Ground Lease to the lien of the Deed of Trust. Upon any foreclosure of Transit Center Ground Lessee's leasehold interest under this Transit Center Ground Lease pursuant to a Deed of Trust or a sale of the Transit Center Ground Lessee's leasehold interest under this Transit Center Ground Lease pursuant to the trustee's power of sale contained in a Deed of Trust, the Construction Lender shall assume the obligations of Transit Center Lessee under this Transit Center Ground Lease and the Transit Center Project Lease by executing, acknowledging and recording an assumption agreement in form and substance reasonably satisfactory to Transit Center Ground Lessor. The Construction Lender shall thereafter have all the rights and shall perform all the duties and obligations of Transit Center Ground Lessee under this Transit Center Ground Lease and the Transit Center Project Lease.

9.9 No Fee Subordination. Transit Center Ground Lessor shall not be required to subordinate its interest in the fee estate of the Transit Center Land to any Deed of Trust.

10. Indemnity and Insurance.

10.1 Ground Lessee's Indemnification. Transit Center Ground Lessee shall protect, defend, indemnify, and save harmless Transit Center Ground Lessor and its officers, officials, and employees, from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever (hereinafter "claims"), arising out of or in any way resulting from acts or omissions of Transit Center Ground Lessee's officers, employees, Contractors and/or subcontractors of all tiers, or the negligence, willful misconduct or breach by Transit Center Ground Lessee of its obligation under this Transit Center Ground Lease, to the maximum extent permitted by law, including RCW 4.24.115, as now enacted or as hereinafter amended.

Transit Center Ground Lessee's obligations under Section 10.1 of this Transit Center Ground Lease shall include, but not be limited to:

(a) The duty to promptly accept tender of defense and provide defense to Transit Center Ground Lessor at Transit Center Ground Lessee's own expense.

(b) The duty to indemnify and defend Transit Center Ground Lessor from any such claim, demand, and/or cause of action brought by or on behalf of any of Transit Center Ground Lessee's employees, or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of Transit Center Ground Lessee's immunity under the Washington Industrial Insurance Act, RCW Title 51, as respects the Transit Center Ground Lessor only, with a full and complete indemnity and defense of claims made by Transit Center Ground Lessee's employees. The parties acknowledge that these provisions were mutually negotiated and agreed upon by them.

(c) In the event the Transit Center Ground Lessor incurs any judgment, award, and/or costs arising from any claim to which it is entitled to be indemnified

hereunder, including attorneys' fees, to enforce the provisions of this Section 10, all such reasonable fees, expenses, and costs shall be paid by Transit Center Ground Lessee.

Notwithstanding the provisions contained in this subsection 10.1, Transit Center Ground Lessee's obligation to indemnify Transit Center Ground Lessor shall not extend to any claim, demand or cause of action to the extent caused by the negligence, willful misconduct or breach of this Transit Center Ground Lease by Transit Center Ground Lessor or its officials, officers or employees.

10.2 Transit Center Ground Lessor's Indemnification. Transit Center Ground Lessor shall protect, defend, indemnify, and save harmless Transit Center Ground Lessee and its officials, officers or employees, from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever (hereinafter "claims"), arising out of or in any way resulting from the negligence or willful misconduct of Transit Center Ground Lessor's officers, officials, or employees acting within the scope of their employment or office or breach by Transit Center Ground Lessor of its obligations under this Transit Center Ground Lease, to the maximum extent permitted by law including RCW 4.24.115, as now enacted or as hereinafter amended.

Notwithstanding the previous paragraph contained in this subsection 10.2, Transit Center Ground Lessor's obligation to indemnify Transit Center Ground Lessee shall not extend to any claim, demand or cause of action to the extent caused by the negligence, willful misconduct or breach of this Transit Center Ground Lease by Transit Center Ground Lessee or its officers or employees.

10.3 Notice of Claim. Any party making a claim for indemnification pursuant to this Section 10 (an "Indemnified Party") must give the party from whom indemnification is sought (an "Indemnifying Party") written notice of such claim (an "Indemnification Claim Notice") promptly after the Indemnified Party receives any written notice of any action, lawsuit, proceeding, investigation or other claim (a "proceeding") against or involving the Indemnified Party by a government entity or other third party, or otherwise discovers the liability, obligation or facts giving rise to such claim for indemnification; provided that the failure to notify or delay in notifying an Indemnifying Party will not relieve the Indemnifying Party of its obligations pursuant to this Section 10 except to the extent that the Indemnifying Party's ability to defend against such claim is actually prejudiced thereby. Such notice shall contain a description of the claim and the nature and amount of such loss (to the extent that the nature and amount of such loss is known at such time).

10.4 Contractors' Indemnification. Transit Center Lessee shall include a provision in all Construction Contracts requiring the Contractors to indemnify Transit Center Ground Lessor, and its officers, officials, and employees on terms substantially equivalent to Ground Lessee's indemnification obligations contained in Section 10.1 above, including, without limitation the RCW Title 51 waiver contained in Section 10.1(b).

10.5 Transit Center Ground Lessee's Insurance. Transit Center Ground Lessee shall, at all times during the Term of this Transit Center Ground Lease, and in addition to Section 13 of the Transit Center Project Lease, be subject to the following provisions:

(a) Property Insurance. Transit Center Ground Lessee shall maintain property insurance fully insuring all Transit Center Project improvements constructed on the Transit Center Land as well as all of Transit Center Ground Lessor's personal property and trade fixtures located on the Garage Land against loss or damage by fire and lightning, and insurance against risks customarily covered by extended coverage endorsement, including but not limited to loss by windstorm, hail, explosion, riot, vehicles, smoke damage, vandalism and malicious mischief in amounts sufficient to prevent Transit Center Ground Lessor from becoming a co-insurer of any loss under the applicable policies, but in any event in amounts not less than the full replacement cost of all buildings, equipment, and other improvements to the Transit Center Land arising from the Transit Center Project, including the cost of debris removal. The property insurance policy shall meet the requirements set forth in this Section 10 and any additional requirements in applicable sections of the Transit Center Project Lease, if any.

(b) General Liability. Transit Center Ground Lessee shall maintain commercial general liability insurance, covering the legal liability of Transit Center Ground Lessee against claims for bodily injury, death or property damage, occurring on, in or about the Transit Center Land and the Transit Center Project. The commercial general liability insurance policy shall name Transit Center Ground Lessor as an additional insured and shall meet the requirements set forth in this Section 10 and in applicable sections of the Transit Center Project Lease.

(c) Financially Responsible Insurers. All of the insurance obtained under this Section 10.5 shall be written by companies which are legally qualified to issue such insurance and which have a Best's rating of no less than A:VIII, or, if not rated by Best's, which have a rating in one of the two highest categories maintained by S&P and Moody's, and shall name Lessor as an additional named insured. Transit Center Ground Lessor shall be given forty-five (45) days advance notice of any termination or intent to terminate or cancel any policy referred to in this Section 10.5.

10.6 Waiver of Subrogation. Every insurance policy maintained pursuant to Section 10.5 shall provide that the insurer waives all rights of subrogation against a named insured, and any successor to a named insured's interest in the Transit Center Land or the Transit Center Project.

10.7 Evidence of Insurance. Transit Center Ground Lessee shall deliver to Transit Center Ground Lessor prior to the Effective Date of this Transit Center Ground Lease certificates of insurance evidencing all the insurance which is then required to be maintained by Transit Center Ground Lessee, and Transit Center Ground Lessee shall, within forty-five (45) days prior to the expiration of any such insurance, deliver other certificates of insurance evidencing the renewal of such insurance.

11. Eminent Domain.

11.1 Total Condemnation. If during the Term but prior to the Final Completion of the Transit Center Project under the Transit Center Project Lease there is a taking or damaging of all or any portion of the Transit Center Land by the exercise of any governmental power, whether by legal proceedings or otherwise by a governmental agency with jurisdiction over the Transit Center Land or a transfer by Transit Center Ground Lessor either under threat of condemnation or while legal proceedings for condemnation are pending (a "Condemnation") such that the Transit Center Project may no longer be constructed in accordance with the Contract Documents as defined in the Transit Center Project Lease, this Transit Center Ground Lease and the Transit Center Project Lease shall terminate, Transit Center Ground Lessee shall be paid in accordance with Section 19 of the Transit Center Project Lease and the parties shall have no further obligations hereunder. After Transit Center Ground Lessee has been paid in accordance with the foregoing sentence all remaining condemnation proceeds shall be paid to Transit Center Ground Lessor. If there is a Condemnation after the Commencement Date of the Transit Center Project Lease, such that there can be no reasonable use of the Premises (as defined in the Transit Center Project Lease) by Transit Center Ground Lessor, in its capacity as the tenant under the Transit Center Project Lease as reasonably determined by Transit Center Ground Lessor, this Transit Center Ground Lease and the Transit Center Project Lease shall terminate as of the date the condemnor has the right to possession of the property being condemned, and the condemnation proceeds shall be divided between Transit Center Ground Lessor and Transit Center Ground Lessee as provided in Section 19 of the Transit Center Project Lease.

11.2 Partial Condemnation. If during the Term but prior to the Final Completion of the Transit Center Project under the Transit Center Project Lease, there is a partial Condemnation of the Transit Center Land or the Premises, the condemnation proceeds shall be divided between Transit Center Ground Lessor and Transit Center Ground Lessee as provided in Section 17 of the Transit Center Project Lease.

12. Events of Default by Transit Center Ground Lessee and Transit Center Ground Lessor's Remedies.

12.1 Events of Default. A default by Transit Center Ground Lessee under the Transit Center Project Lease shall be treated as a default under this Transit Center Ground Lease and a default under this Transit Center Ground Lease shall be treated as a default under the Transit Center Project Lease. To the extent a default by Transit Center Ground Lessee is not addressed by the Transit Center Project Lease, or in the event the Transit Center Project Lease no longer applies, according to its terms, to the Transit Center Ground Lease, the following occurrences or acts shall constitute an event of default under this Transit Center Ground Lease:

(a) **Failure to Perform.** If Transit Center Ground Lessee shall (i) default in making payment when due of any Rent, Additional Rent or any other amount payable by Transit Center Ground Lessee hereunder which is not cured within seven (7) days after written notice has been given by Transit Center Ground Lessor to Transit Center Ground Lessee; or (ii) default in the observance or performance of any other substantial provision of this Transit Center Ground Lease to be observed or performed by Transit Center Ground Lessee hereunder, if such default shall continue for thirty (30) days after Transit Center Ground Lessor

shall have given to Transit Center Ground Lessee written notice specifying such default and demanding that the same be cured, or, with respect to a default under subsection (ii), if by reason of the nature thereof such default cannot be cured by the payment of money and cannot with due diligence be wholly cured within such period of thirty (30) days, if Transit Center Ground Lessee shall fail to commence to cure such default within such thirty (30) day period or fails to thereafter diligently and continuously prosecute such cure to completion; or

(b) Transit Center Ground Lessee's Financial Condition. Transit Center Ground Lessee shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Transit Center Ground Lessee or Transit Center Ground Lessee's leasehold interest under this Transit Center Ground Lease or the Transit Center Project Lease, or within 60 days after the commencement of any proceeding against Transit Center Ground Lessee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed or if, within 60 days after the appointment, without the consent or acquiescence of Transit Center Ground Lessee, of any trustee, receiver or liquidator of Transit Center Ground Lessee or of Transit Center Ground Lessee's leasehold interest under this Transit Center Ground Lease or the Transit Center Project Lease, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within sixty (60) days after the expiration of any such stay, such appointment shall not have been vacated.

(c) Events of Transit Center Project Lease Landlord Default under Transit Center Project Lease. An uncured default by Transit Center Ground Lessee pursuant to Section 24 of the Transit Center Project Lease shall constitute a default under this Transit Center Ground Lease.

12.2 Remedies Upon Transit Center Ground Lessee's Default. In the event of any default by Transit Center Ground Lessee as defined hereinabove which default remains uncured after the expiration of the respective period set forth above, unless specifically subject to the notice and cure provisions of Section 24 of the Transit Center Project Lease, Transit Center Ground Lessor may exercise any right or remedy which may be available to Transit Center Ground Lessor under the Transit Center Project Lease, or at law or equity, including but not limited to actions for damages, and/or injunctive relief, and termination of Transit Center Ground Lessee's right to possession by any lawful means in which event this Transit Center Ground Lease and the Transit Center Project Lease shall terminate and Transit Center Ground Lessee shall immediately surrender possession of the Transit Center Land and all easements and rights appurtenant thereto to Transit Center Ground Lessor.

12.3 Cumulative Rights and Remedies. The rights and remedies reserved to Transit Center Ground Lessor herein, including those not specifically described, shall be cumulative, and except as provided by Washington statutory law in effect at the time, Transit Center Ground Lessor may pursue any and all such rights and remedies at the same time or independently.

12.4 No Waiver. No delay or omission of Transit Center Ground Lessor to exercise any right or remedy shall, except as expressly provided herein, be construed as a waiver of any such right or remedy or of any default by Transit Center Ground Lessee hereunder. The acceptance by Transit Center Ground Lessor of Rent or any Additional Rent hereunder shall not be a waiver of any preceding breach or default by Transit Center Ground Lessee of any provision hereof, other than the failure of Transit Center Ground Lessee to pay the particular Rent or Additional Rent accepted, regardless of Transit Center Ground Lessor's knowledge of such preceding breach or default at the time of acceptance of such Rent or Additional Rent, or, except as expressly set forth herein, a waiver of Transit Center Ground Lessor's right to exercise any remedy available to Transit Center Ground Lessor by virtue of such breach or default.

12.5 Attorneys' Fees. If either party incurs any expenses, including but not limited to reasonable attorneys' fees, consultant and expert witness fees, in connection with any action or proceeding instituted by any party by reason of any default or alleged default of a party hereunder, the party prevailing in such action or proceeding shall be entitled to recover its reasonable expenses from the other party hereof. For purposes of this provision, in any action or proceeding instituted pertaining to this Transit Center Ground Lease, a party shall be deemed the prevailing party if (i) judgment is entered substantially in favor of said party or (ii) before trial or judgment the other party shall pay all or any portion of the charges claimed by said party, or the other party shall eliminate the condition(s), cease the act(s) or otherwise cure the omissions(s) claimed by said party to constitute a default by the other party hereunder.

13. Bankruptcy. To the extent applicable and in effect, the Transit Center Project Lease shall control in the event Transit Center Ground Lessee becomes a Debtor as described in this Section 13. To the extent not applicable or in effect, the following shall control:

13.1 Assumption of Transit Center Ground Lease and Transit Center Project Lease. If Transit Center Ground Lessee becomes a Debtor under Chapter 7 of the Bankruptcy Code or a petition for reorganization or adjustment of debts is filed concerning Transit Center Ground Lessee under Chapters 11 or 13 of the Bankruptcy Code, or a proceeding is filed under Chapter 7 of the Bankruptcy Code and is transferred to Chapters 11 or 13 of the Bankruptcy Code, the Bankruptcy Trustee or Transit Center Ground Lessee, as applicable, as Debtor and as Debtor-In-Possession, may not elect to assume this Transit Center Ground Lease unless, at the time of such assumption, the Bankruptcy Trustee or Transit Center Ground Lessee has also assumed the Transit Center Project Lease and the Bankruptcy Trustee or Transit Center Ground Lessee, as applicable has:

(a) Cured all defaults under the Transit Center Ground Lease and/or Transit Center Project Lease (as applicable) and paid all sums due and owing under same, as applicable, or provided Transit Center Lessor with "Adequate Assurance" (as defined below) that: (i) within ten (10) days from the date of such assumption, the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) will completely pay all sums then due and owing under this Transit Center Ground Lease and/or Transit Center Project Lease (as applicable) and compensate Transit Center Ground Lessor for any actual pecuniary loss resulting from any existing default or breach of same (as applicable), including without limitation, Transit Center Ground Lessor's reasonable costs, expenses, accrued interest, and attorneys' fees incurred as a result of the default or breach; and (ii) within twenty (20) days from the date of such assumption,

the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) will cure all non-monetary defaults and breaches under this Transit Center Ground Lease and/or Transit Center Project Lease (as applicable) or, if the nature of such non-monetary defaults is such that more than twenty (20) days are reasonably required for such cure, that the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) will commence to cure such non-monetary defaults within twenty (20) days and thereafter diligently prosecute such cure to completion; and (iii) the assumption will be subject to all of the provisions of this Transit Center Ground Lease and the Transit Center Project Lease.

(b) For purposes of this Section 13, Lessor and Transit Center Ground Lessee (as applicable) acknowledge that, in the context of a bankruptcy proceeding involving Transit Center Ground Lessee (as applicable) at a minimum, "Adequate Assurance" shall mean: (i) the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Transit Center Ground Lessor that the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) will have sufficient funds and/or income to fulfill the obligations of Lessee (as applicable) under this Transit Center Ground Lease and Transit Center Project Lease (including Transit Center Ground Lessee's obligations to construct the Transit Center Project) and (ii) the Bankruptcy Court shall have entered an order segregating sufficient cash payable to Transit Center Ground Lessor and/or the Bankruptcy Trustee or Transit Center Ground Lessee, (as applicable) shall have granted a valid and perfected first lien and security interest and/or mortgage in or on property of Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) acceptable as to value and kind to Transit Center Ground Lessor, to secure to Transit Center Ground Lessor the obligation of the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) to cure the monetary and/or non-monetary defaults and breaches under this Transit Center Ground Lease and the Transit Center Project Lease within the time periods set forth above.

13.2 Assignment of Transit Center Ground Lease and Transit Center Project Lease. If the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) has assumed this Transit Center Ground Lease and the Transit Center Project Lease pursuant to the provisions of this Section 13 for the purpose of assigning Transit Center Ground Lessee's interest hereunder to any other person or entity, such interest may be assigned only after the Bankruptcy Trustee or Transit Center Ground Lessee (as applicable) or the proposed assignee has complied with all of the terms, covenants and conditions of this Transit Center Ground Lease and Transit Center Project Lease (as applicable) including, without limitation, those with respect to (a) the Permitted Use of the Premises; (b) the construction of the Transit Center Project for the Fixed Price; and (c) granting Transit Center Ground Lessor the option to purchase the Premises at the Option Price set forth in the Transit Center Project Lease. Transit Center Ground Lessor and Transit Center Ground Lessee acknowledge that such terms, covenants and conditions are commercially reasonable in the context of a bankruptcy proceeding of Transit Center Ground Lessee. Any person or entity to which this Transit Center Ground Lease and the Transit Center Project Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Transit Center Ground Lease and the Transit Center Project Lease on and after the date of such assignment. Any such assignee shall upon request execute and deliver to Transit Center Ground Lessor an instrument confirming such assignment.

13.3 Adequate Protection. Upon the filing of a petition by or against Transit Center Ground Lessee under the Bankruptcy Code, Transit Center Ground Lessee as Debtor and as Debtor-In-Possession, and any Bankruptcy Trustee who may be appointed agree to adequately protect Transit Center Ground Lessor as follows: (i) to perform each and every obligation of Transit Center Ground Lessee under this Transit Center Ground Lease and the Transit Center Project Lease until such time as same are either rejected or assumed by Order of the Bankruptcy Court; (ii) to pay all monetary obligations required under this Transit Center Ground Lease and the Transit Center Project Lease, including without limitation, the payment of Rent, Additional Rent, Impositions and Utilities and any other sum payable by Transit Center Ground Lessee, as applicable, under this Transit Center Ground Lease and the Transit Center Project Lease which is considered reasonable compensation for the use and occupancy of the Transit Center Land; (iii) provide Transit Center Ground Lessor a minimum of thirty (30) days prior written notice, unless a shorter period is agreed to in writing by the parties, of any proceeding relating to any assumption of this Transit Center Ground Lease or the Transit Center Project Lease or any intent to abandon the Transit Center Land, the Premises or Transit Center Project, which abandonment shall be deemed a rejection of this Transit Center Ground Lease and the Transit Center Project Lease; and (iv) to perform for the benefit of Transit Center Ground Lessor as otherwise required under the Bankruptcy Code. The failure of Transit Center Ground Lessee to comply with the above shall result in an automatic rejection of this Transit Center Ground Lease and the Transit Center Project Lease.

14. Transit Center Ground Lessee to Comply with Applicable Laws and Agreements.

14.1 Compliance with Laws. Transit Center Ground Lessee shall not use the Transit Center Land, Garage Land or Housing Land or permit anything to be done in or about the Transit Center Land, Garage Land or Housing Land or Transit Center Project which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Transit Center Ground Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and obtain all permits, licenses or other approvals required by governmental agencies or bodies. Transit Center Ground Lessee shall further comply with the requirements of any board or fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use, interim use or occupancy of the Transit Center Land or, as may be applicable, the Garage Land and/or Housing Land.

14.2 Compliance with Agreements. Transit Center Ground Lessee shall comply with all insurance policies and applicable agreements to which Transit Center Ground Lessee is a party or by which it is bound, now or hereafter in effect, and all agreements of which Lessee has notice and which are now in effect and applicable to the Transit Center Land, including Federal Transit Authority requirements and the requirements of public agencies awarding grants or loans associated with affordable housing.

15. Hazardous Substances.

15.1 Use. Transit Center Ground Lessee, its officers, directors, agents, employees or contractors shall not use the Transit Center Land, or the Housing Land on an interim basis, in a

manner that violates any applicable federal, state or local law, regulation or ordinance, including, but not limited to, any such law, regulation or ordinance pertaining to air and water quality, the handling, transportation, storage, treatment, usage or disposal of Hazardous Substances, air emissions, other environmental matters, and all zoning and other land use matters. Transit Center Ground Lessee shall not cause or permit the release or disposal of any Hazardous Substances on or from the Transit Center Land or Housing Land.

15.2 Indemnity. Transit Center Ground Lessee agrees to protect, indemnify, defend (with counsel satisfactory to Transit Center Ground Lessor) and hold Transit Center Ground Lessor in its capacity as ground lessor under this Transit Center Ground Lease and its officials, officers, employees and agents, harmless from any claims, judgments, damages, penalties, fines, expenses, liabilities or losses arising after the Effective Date of this Transit Center Ground Lease and arising out of or relating to the presence, release or disposal of Hazardous Substances placed or released on the Transit Center Land or Housing Land as may arise from Transit Center Ground Lessee's interim use thereof, during the term of this Transit Center Ground Lease. Notwithstanding the foregoing, in no event shall Transit Center Ground Lessee be obligated to indemnify Transit Center Ground Lessor under this Transit Center Ground Lease, from any such claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the presence, release or disposal of Hazardous Substances that were (a) present in the soil, groundwater or soil vapor on or under the Transit Center Land, as of the Effective Date of this Transit Center Ground Lease ("Pre-Existing Hazardous Substances"), or (b) released or disposed on or under the Transit Center Land after the Effective Date by Transit Center Ground Lessor, its officials, officers or employees, excluding any claim, judgment, damage, penalty, fine, expense, liability or loss resulting from (i) the negligent actions or omissions of Transit Center Ground Lessee, its general contractor, any subcontractor or their respective agents, employees, contractors, subcontractors or invitees, or (ii) Transit Center Ground Lessee's breach of any contractual obligation under the Transit Center Project Lease or this Transit Center Ground Lease.

The indemnification provided by this Section 15.2 shall also specifically cover, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party because of the presence or suspected presence of Hazardous Substances in the soil, groundwater, or soil vapor on or under the Transit Center Land. Such costs may include, but not be limited to, diminution in the value of the Transit Center Land, damages for the loss or restriction on use of parking stalls or rentable or useable space in any improvements now or hereafter located on the Transit Center Land, sums paid in settlements of claims, attorney's fees, consultant's fees and expert fees. This indemnification shall survive the termination of the Transit Center Project Lease or this Transit Center Ground Lease.

15.3 Obligations of Transit Center Ground Lessor. Transit Center Ground Lessor shall be solely responsible for all claims, judgments, damages, penalties, fines, expenses, liabilities or losses relating to the presence, release or disposal of Pre-Existing Hazardous Substances on or under the Transit Center Land, including without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political

subdivision because of the presence or suspected presence of Pre-Existing Hazardous Substances. Such costs may include, but not be limited to, sums paid in settlements of claims, attorney's fees, consultant's fees and expert fees.

15.4 Remediation of Pre-Existing Hazardous Substances. If Transit Center Ground Lessee discovers during construction of the Transit Center Project that Pre-Existing Hazardous Substances exist in the soil or in the ground water on or under the Transit Center Land, Transit Center Ground Lessee shall promptly notify Transit Center Ground Lessor of its discovery of Pre-Existing Hazardous Substances. Transit Center Ground Lessor shall diligently cause such Pre-Existing Hazardous Substances located on or under the Transit Center Land to be remediated to the applicable cleanup standards under applicable Environmental Laws in light of Lessee's intended lease of the Transit Center Project to Transit Center Ground Lessor under the Transit Center Project Lease for use as a transit center. If either (a) Transit Center Ground Lessor fails to commence all cleanup, remediation, removal or restoration work required by applicable Environmental Laws within thirty (30) days after receipt of Transit Center Ground Lessee's notice of its discovery of Pre-Existing Hazardous Substances, or (b) Transit Center Ground Lessor commences the foregoing work within such thirty (30) day period, but fails to diligently and continuously prosecute all required work to completion, then Transit Center Ground Lessee may, at its option and upon ten (10) days notice to Transit Center Ground Lessee, cause such cleanup, remediation, removal or restoration work ("Remediation") to be performed. In such event, and subject in all instances to Transit Center Ground Lessor's reasonable and timely written approval of Transit Center Ground Lessee's proposed plan for Remediation (the "Remediation Plan"), Transit Center Ground Lessor shall promptly reimburse Transit Center Ground Lessee for all costs reasonably incurred by Transit Center Ground Lessee pursuant to the Remediation Plan in performing Remediation.

15.5 Notification Requirements. Transit Center Ground Lessee shall promptly notify Transit Center Ground Lessor in writing of all spills or releases of any Hazardous Substances, all failures to comply, with any federal, state, or local law, regulation or ordinance, all inspections of the Transit Center Land by any regulatory entity concerning the same, all notices, orders, fines or communications of any kind from any governmental entity or third party that relate to the existence of or potential for environmental pollution of any kind existing on the Transit Center Land or any activity conducted thereon, and all responses or interim cleanup action taken by or proposed to be taken by any government entity or private party on the Transit Center Land.

Upon request by Transit Center Ground Lessor, Transit Center Ground Lessee shall provide Transit Center Ground Lessor with a written report (a) listing the Hazardous Substances that were used or stored on the Transit Center Land or on the Housing Land relating to any interim use by Transit Center Ground Lessee; (b) discussing all releases of Hazardous Substances that occurred or were discovered on the Transit Center Land or Housing Land and all compliance activities related to Hazardous Substances, including all contacts with and all requests from third parties for cleanup or compliance; (c) providing copies of all permits, manifests, business plans, consent agreements or other contracts relating to Hazardous Substances executed or requested during that time period; and (d) including such other information requested by Transit Center Ground Lessor. The report shall include copies of all documents and correspondence related to such activities and written reports of verbal contacts.

15.6 Inspection Rights. Transit Center Ground Lessor, its officers, employees and agents, shall have the right, but not the duty, to inspect the Transit Center Land and Transit Center Ground Lessee's relevant environmental and land use documents at any time and to perform such tests on the Transit Center Land as are reasonably necessary to determine whether Transit Center Ground Lessee is complying with the terms of this Transit Center Ground Lease. If Transit Center Ground Lessee is not in compliance with this Transit Center Ground Lease, Transit Center Ground Lessor, without waiving or releasing any right or remedy it may have with respect to such noncompliance, shall have the right to immediately enter upon the Transit Center Land to remedy any contamination caused by Transit Center Ground Lessee's failure to comply notwithstanding any other provision of this Transit Center Ground Lease. Transit Center Ground Lessor shall use reasonable efforts to minimize interference with Transit Center Ground Lessee's business but shall not be liable for any interference caused thereby.

16. Notices.

16.1 Addresses. All notices, requests, demands, instructions or other documents to be given hereunder to any party shall be in writing and shall either be personally delivered to the party at the appropriate address set forth below (in which event such notice shall be deemed effective only upon such delivery) or delivered by mail, sent by registered or certified mail, return receipt requested, as follows:

If to Transit Center Ground Lessor:

King County
Property Services Division
500 King County Administration Building
500 Fourth Avenue
Seattle, WA 98104
Facsimile: (206) 205-5070

If to Transit Center Ground Lessee:

Kirkland Park & Ride, LLC

For the purpose of this Section 16, addresses for notice may be changed by giving written notice of such change in the manner herein provided for giving notice. Transit Center Ground Lessee, Imagine Housing and the Construction Lender are collectively referred to herein as "Transit Center Ground Lessee Notice Parties". Any notice sent to Transit Center Ground Lessee under the Transit Center Ground Lease shall simultaneously be sent to all Transit Center Ground Lessee Notice Parties.

17. Assignment and Subleasing. Transit Center Ground Lessee shall not assign, transfer or encumber its interest in this Transit Center Ground Lease, the Transit Center Project Lease or in the Premises (except to Construction Lender in accordance with the provisions set forth in Section 9 of this Transit Center Ground Lease and Section 10 of the Transit Center Project Lease) or sublease the Transit Center Land or the Premises, in whole or in part, without the prior written consent of Transit Center Ground Lease Lessor, which consent may be withheld by Transit Center Ground Lessor in its sole and absolute discretion. Any request by Transit Center Ground Lessee for such consent shall be in writing which shall set forth the details as to the proposed assignment, mortgage or subletting and have annexed thereto a copy of the proposed assignment, mortgage or sublease. Except as otherwise expressly provided herein, any attempted assignment, transfer, mortgage, encumbrance or subletting without Transit Center Ground Lessor's consent shall be void and shall constitute a breach of this Transit Center Ground Lease and the Transit Center Project Lease. Any transfer of Transit Center Ground Lessee's interest in this Transit Center Ground Lease, the Transit Center Project Lease or in the Premises as a result of merger, consolidation or liquidation shall be deemed to be a prohibited assignment within the meaning of this Section 17.

18. Miscellaneous.

18.1 Time of Essence. Time is of the essence in regard to performance of the covenants and agreements stated herein.

18.2 No Joint Venture or Agency. Nothing contained in this Transit Center Ground Lease nor any of the acts of the parties hereto shall be construed nor is it the intent of the parties, to create a joint venture or partnership between Transit Center Ground Lessor and Transit Center Ground Lessee, nor is either party the agent or representative of the other, and nothing in this Transit Center Ground Lease shall be construed to create any such agency relationship or to hold either party liable to anyone for goods delivered or services performed at the request of the other party.

18.3 Amendments. No change in or addition to or waiver or termination of this Transit Center Ground Lease any part hereof, shall be valid unless made in writing and signed by or on behalf of the party charged therewith. Transit Center Ground Lessor and Transit Center Ground Lessee agree to negotiate in good faith regarding any amendments to this Transit Center Ground Lease that may be requested or required by Construction Lender in connection with the financing of the Project.

18.4 Waiver Limitations. The waiver by either party of any term, covenant or condition herein contained on the part of the other party to be performed shall not be deemed a waiver of such term, covenant or condition for any subsequent breach of the same or any other term, covenant or condition herein contained.

18.5 Governing Law. This Transit Center Ground Lease shall be construed in accordance with and governed by the laws of the State of Washington.

18.6 Headings. The article, section and paragraph headings herein contained are for the purposes of identification and reference convenience only and shall not be considered in construing this Transit Center Ground Lease.

18.7 Successors and Assigns. Subject to the provisions hereof restricting the sublease or assignment by Transit Center Ground Lessee, all the terms and provisions of this Transit Center Ground Lease shall be binding upon and to the benefit of and be enforceable by the parties and the successors and assigns of the parties.

18.8 No Merger. In no event shall the leasehold interest of Transit Center Ground Lessee hereunder merge with any estate of Transit Center Ground Lessor in or to the Transit Center Land or the leasehold interest of the Transit Center Ground Lessor as tenant under the Transit Center Project Lease. In the event that Transit Center Ground Lessor acquires the leasehold interest of Transit Center Ground Lessee, such leasehold interest shall not merge with the Transit Center Ground Lessor's fee interest in the Transit Center Land or the leasehold interest of Transit Center Ground Lessor under the Transit Center Project Lease, and this Transit Center Ground Lease and the Transit Center Project Lease shall remain in full force and effect until otherwise terminated pursuant to provisions thereof.

18.9 Counterparts; Recording of Memorandum. This Transit Center Ground Lease may be executed in several counterparts, each of which shall be deemed an original for all purposes. Either Transit Center Ground Lessor or Transit Center Ground Lessee shall have the right to record a memorandum of this Transit Center Ground Lease in a form comparable to that provided in the Transit Center Project Lease and the parties shall cooperate in execution of such memorandum.

18.10 Schedule of Exhibits. This Transit Center Ground Lease includes the following exhibits attached hereto and incorporated herein by this reference.

- EXHIBIT A Legal Description and Map of Property
- EXHIBIT B Legal Description and Map of Transit Center Land (to be attached following completion of Short Plat of Property)

IN WITNESS WHEREOF, Transit Center Ground Lessor and Transit Center Ground Lessee have executed this Transit Center Ground Lease as of the date set forth in the first paragraph of this Transit Center Ground Lease to evidence their agreement to the terms of this Transit Center Ground Lease.

DATED the date first above written.

TRANSIT CENTER GROUND LESSOR:

KING COUNTY,
a political subdivision of the
State of Washington

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

By _____
Name: _____
Title: _____
Date: _____

TRANSIT CENTER GROUND LESSEE:

Kirkland Park & Ride, LLC,
a Washington limited liability company

By _____
Name: _____
Title: _____
Date: _____

STATE OF WASHINGTON }
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that [he/she] signed this instrument, on oath stated that [he/she] was authorized to execute the instrument and acknowledged it as the _____ of **KING COUNTY**, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2012.

Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

STATE OF WASHINGTON }
COUNTY OF KING } ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the _____ of _____, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2012.

Printed Name _____
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission Expires _____

EXHIBIT A

LEGAL DESCRIPTION AND DIAGRAM OF PROPERTY

Certain real property situated in King County, Washington and more particularly described as follows:

All of Lot D of City of Kirkland Short Plat Number 78-8-1, recorded under King County Recording Number 7808281050, in King County, Washington, separated as follows:

PARCEL A:

APN 202505-9081-05 (Bellevue):

That portion of Lot D of City of Kirkland Short Plat Number 78-8-1, recorded under King County Recording Number 7808281050, in King County, Washington, lying within the Northwest quarter of the Northeast quarter of Section 20, Township 25 North, Range 5 East, W.M.

PARCEL B:

APN 202505-9230-05 (Kirkland):

That portion of Lot D of City of Kirkland Short Plat Number 78-8-1, recorded under King County Recording Number 7808281050, in King County, Washington, lying within the Northeast quarter of the Northwest quarter of Section 20, Township 25 North, Range 5 East, W.M.

EXHIBIT B

LEGAL DESCRIPTION AND DIAGRAM OF TRANSIT CENTER LAND

(To be attached to this Transit Center Ground Lease following completion of Short Plat of Property)



